

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6647**

**BILL NUMBER:** SB 168

**NOTE PREPARED:** Mar 22, 2012

**BILL AMENDED:** Jan 23, 2012

**SUBJECT:** Liability for Underground Storage Tank Fees.

**FIRST AUTHOR:** Sen. Randolph

**FIRST SPONSOR:** Rep. Soliday

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) The bill provides that the state may impose a lien on the property of an owner or operator of an underground storage tank, if the owner or operator of the tank fails to register or pay certain fees. It requires the Department of Environmental Management (IDEM) to: (1) provide 30 days written notice before filing a lien; and (2) perfect a lien by recording the lien with the county recorder in the county in which the property is located. The bill also provides that a bona fide purchaser is eligible to receive funds from the underground storage tank Excess Liability Trust Fund if: (1) the transferee acquires an underground storage tank as a result of a bona fide transaction; (2) the transferor fails to pay any registration fees; (3) IDEM fails to record the lien; and (4) the transferee pays past due fees and interest not more than 30 days after receiving notice of indebtedness.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *IDEM:* This bill allows a lien to be imposed on the property of owners that do not pay underground storage tank fees. This bill requires IDEM to provide at least 30 days written notice to the owner, tenant or operator of the property before filing a lien, and to record the lien with the county recorder in the county where the property is located. Any impact in expenditures will depend upon the extent that liens must be imposed.

(Revised) *Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF).* The bill provides that bona fide purchasers are eligible to receive funds from the ELTF if a transferor fails to pay any registration fees, and IDEM fails to record a lien. Also, if the transferee pays all applicable tank fees and interest for each tank within 30 days of receiving notice of the indebtedness, they may receive funds from the ELTF. The impact

that these provisions will have on expenditures from the ELTF will depend on the number and nature of such claims.

Current statute provides that a transferee of property upon which a tank was located is eligible to receive money from the ELTF if the transferor of the property was eligible to receive money with respect to the property.

Revenue in the ELTF fluctuates, recently between \$45 M to \$50 M annually.

**Explanation of State Revenues:** Imposing liens could assist in collecting underground storage tank fees, but it is unknown to what extent. Annual registration fees for underground storage tanks are \$90 for petroleum, and \$245 for regulated substances other than petroleum. About \$48 M was collected in underground petroleum storage tank fees for FY 2011. Fees are deposited as follows for underground petroleum storage tanks: \$45 is deposited in the Excess Liability Trust Fund; and \$45 is deposited in the Petroleum Trust Fund.

Fees for underground storage tanks used to contain regulated substances other than petroleum are deposited as follows: \$45 is deposited in the Hazardous Substances Response Trust Fund; and \$200 is deposited in the Excess Liability Trust Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** IDEM.

**Local Agencies Affected:**

**Information Sources:** Brad Baughn, IDEM, 317-234-3386; Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, Fiscal Year 2011.

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